

Appl. No. 09/730,329
Amdt. dated September 27, 2005
Reply to Office Action of June 27, 2005

PATENT

REMARKS/ARGUMENTS

With entry of this amendment, claims 6-10 and 13-14 are pending. Claims 6-10 are examined on the merits and claims 13-14 stand withdrawn. Claims 1-5, 11-12 and 15-21 are canceled without prejudice or disclaimer.

Claims 6, 7 and 13 are amended. Support for these amendments is provided in the specification, *e.g.*, at paragraphs [0090], [0094] and [0095] and in original claims 6 and 13. No new matter is added by these amendments.

Paragraphs [0060], [0107], [0153], [0187], [0191], [0195], [0198], [0200], [0201], [0238] and [0241] of the specification are amended. Amendments to these paragraphs are shown by double underlining or strikethrough. No new matter is added by these amendments.

No amendment is an acquiescence to any rejection.

Restriction Requirement

In the restriction requirement dated March 21, 2005, the Examiner required election of Group I or Group II, as set forth in that paper. The Examiner further required selection of formula I or II, arguing that each compound was a distinct peptide. The latter requirement was said not to be a species election.

Applicants elected Group I and formula (I). Claims in Group I, formula (II) were then withdrawn by the Examiner. Applicants submit the Examiner has effectively restricted the claims to four groups: Group I, formula (I); Group I, formula (II); Group II, formula (I); and Group II, formula (II). Therefore, none of these groups can properly be rejected for obviousness-type double patenting in view of any other of these groups.

Objections

The Examiner objects to references to Fig. 11 in paragraph [0107] and to Fig. 4 in paragraph [0200] of the substitute specification. Applicants have amended paragraphs [0107] and [0200], as well as paragraphs [0060], [0187], [0195], [0198] and [0201] to delete references

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to the figures. Certain sentences also have been reworded due to the deletion of references to the figures.

The Examiner objects to the map of cloning vector pCEK2 at page 58, paragraph [0191] of the substitute specification. Applicants have submitted replacement paragraph [0191] with a resized map of cloning vector pCEK2.

The Examiner objects to the citations to an IC_{50} value in " μm ." In response, Applicants have amended paragraphs [0153] and [0238], changing IC_{50} units in " μm " to " μM ."

No new matter is added by these amendments. In view of these amendments, Applicants request the Examiner reconsider and withdraw the objections to the specification.

Rejections under 35 USC § 112, first paragraph

Claims 1-5 stand rejected under 35 USC § 112, first paragraph, as allegedly not enabled. To expedite prosecution of this case, Applicants cancel claims 1-5 without prejudice or disclaimer.

Rejections under 35 USC § 112, second paragraph

Claims 1-10 stand rejected under 35 USC § 112, second paragraph, as allegedly indefinite. The Examiner says claims 1, 5, 6, and 7 are indefinite for the recitation of "wherein V, A, E and F are valine, alanine, glutamine and phenylalanine respectively including conservative substitutions thereof." In particular, the Examiner argues that it is unclear how "V, A, E, and F" can also be conservative substitutions "since the amino acid residues of formula I at positions 1, 5, 6 and 7 are defined as valine, alanine, glutamine and phenylalanine, respectively."

Claims 1-5 have been canceled without prejudice or disclaimer. Therefore, Applicants respond to this rejection with respect to claims 6-10.

Applicants submit the claims would be understood as definite by a person of ordinary skill in the art. V, A, E and F are conventionally defined to be valine, alanine, glutamine or phenylalanine, respectively. Claim 6 more broadly defines the compound of formula (I) to include variants in which one or more of valine, alanine, glutamine or

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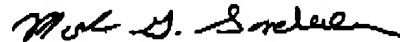
phenylalanine, at positions 1, 5, 6 and 7 of formula (I), respectively, are conservatively substituted.

To further clarify the claim language and to expedite prosecution of this application, claim 6 has been amended to recite the compound can be of formula (I), or a variant thereof in which any of V, A, E and F is/are replaced by a conservative substitution.

Applicants therefore request the Examiner to reconsider and withdraw this rejection.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



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